

Chapter 27

OFFENSES

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ARTICLE I. IN GENERAL

Sec. 27-1. Repealed. (Ord. No. O- 92- 017, 1- 14- 92)

Sec. 27-1.1. Loitering.

Pursuant to the authority granted to the city by the Code of Virginia and its general police powers, the city does hereby adopt the following section for the purpose of ensuring the free passage of pedestrians and vehicles on the public rights-of-way, to ensure free access to public places and to prevent activities that threaten the public safety or threaten a breach of the peace.

No person shall loiter on the public sidewalks, streets, public rights-of-way or on privately owned property that is open to the public in such a manner as to create any of the following conditions:

- (a) No person shall loiter, stand, sit or lie in or upon any public or quasi-public sidewalk, street, curb, crosswalk, walkway area, mall or any portion of privately owned property that is open to the public or utilized for public use, so as to unreasonably hinder or obstruct the free normal flow or passage of pedestrians or vehicles thereon.
- (b) No person shall block or obstruct, or prevent the free access to the entrance to any building open to the public.
- (c) No person shall obstruct, molest or interfere or attempt to obstruct, molest or interfere with any person lawfully on or in a public right-of-way, street or highway, in a manner that would cause a reasonable person or pedestrian on a public right-of-way, street or highway to fear for his or her safety.
- (d) No person shall engage in any conduct on or in a public right-of-way having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed.
- (e) No person shall engage in any conduct on or in a public right-of-way having a direct tendency to cause a disturbance to the reasonable comfort and repose of any other person lawfully on or in a public right-of-way, street or highway.
- (f) No person shall engage in any conduct on or in a public right-of-way having a direct tendency to cause a disturbance to the comfort and repose of reasonable persons living next to such public right-of-way.
- (g) No person on or in any public right-of-way shall engage in yelling, shouting, hooting, whistling or singing in such a manner or with such volume as disturb or annoy the quiet, comfort or repose of reasonable persons.
- (h) In order to promote the safe and orderly flow of traffic on the public streets and highways, no person shall stop a motor vehicle in such manner as to impede or render dangerous the use of the streets or highways by others and no person shall loiter on or in the public streets or highways for the purpose of

engaging the operator of any motor vehicle or any passenger in a motor vehicle in conversation or any other activity while such motor vehicle is stopped on the main-traveled portion of a street or highway.

Any person violating any of the provisions of this section shall be guilty of a class 1 misdemeanor. (Ord. No. O-92-017, 1-14-92)

Sec. 27-2. Adultery and fornication.

It shall be unlawful for any person to commit adultery or fornication. (Code 1959, § 22-1)

State law reference—Similar provisions, Code of Virginia, §§ 18.2-344, 18.2-366.

Sec. 27-3. Bathing in river, etc., without proper suit.

No person shall, in the daytime or in the nighttime, if within view of any occupied house or public place, bathe in any river, canal, pool or creek, unless clothed in a proper bathing suit. (Code 1959, § 22-5)

Charter reference—Prevention of indecent, etc., conduct, § 38(24).

Sec. 27-4. Panhandling.

(a) Purpose. Pursuant to the authority granted to the city by the Code of Virginia and its general police powers, the city does hereby adopt the following section in order to ensure the free and safe passage of pedestrians and vehicles on the public rights-of-way, to ensure free and safe access to public areas and to regulate the time, place and manner of activities that could otherwise threaten the public health, safety and welfare, while also protecting the exercise of citizens' First Amendment rights within the city.

(b) Definitions. The following words and phrases, when used in this section, shall have the following meanings:

(1) Aggressive manner means:

(i) approaching, speaking to or following a person in a manner that would cause a reasonable person to fear imminent physical injury, or the imminent commission of a criminal act upon the person or upon property in the person's immediate possession;

(ii) touching another person without that person's consent;

(iii) intentionally blocking or interfering by any means with the free passage of a person; or

(iv) engaging in any conduct with the intention of intimidating another person into giving money or goods to any person.

(2) "Ask, beg, or solicit" includes the spoken, written, or printed word or such other act conducted for the purpose of obtaining an immediate donation of money or thing of value.

(3) Panhandle or panhandling means doing any of the following acts:

(i) begging, soliciting or asking for any items of value, monetary or otherwise;

(ii) attempting to sell or obtain compensation for an item or service for or in an amount that is at least twice its value, or an item or service that is already offered or available at no charge to the general public; or

(iii) attempting to sell or obtain compensation for an item or service under circumstances that would lead a reasonable person to conclude that the payment is in substance a donation.

(4) Public place means any street, sidewalk, alley, park, bridge, parking lot or other public property within the city, including any building or other structure, that is open to the general public;

(5) Travel lane means the portion of a public street over which motor vehicles travel.

(c) Prohibited acts. It shall be unlawful for any person while in the city:

(1) to ask, beg, or solicit money or things of value, in an aggressive manner in any place open to the general public, including sidewalks, streets, alleys, driveways, parking lots, parks, plazas, buildings, doorways and entrances to buildings, and gasoline service stations, and the grounds enclosing buildings.

(2) to panhandle in an aggressive manner in any public transportation vehicle, including busses and trains;

(3) to panhandle within 15 feet of any automatic teller machine; and

(4) to panhandle or, as a result of panhandling, to receive money or any other item of value, while standing or otherwise present in a travel lane, from any operator or occupant of a motor vehicle located in a travel lane.

(5) to ask, beg, or solicit money or things of value in exchange for cleaning motor vehicle windows while the vehicle is in traffic on a public street.

(6) to distribute newspapers, newsletters, flyers or any other items to the operator or occupant of a motor vehicle while the vehicle is in traffic on a public street.

(7) to ask, beg, or solicit money or things of value on private property or residential property, without permission from the owner or occupant.

(d) Any person convicted of violating this section shall be guilty of a class 3 misdemeanor. (Code 1959, § 22-6; Ord. No. O-00-246, 11-14-00)

Charter reference—Mendicants, § 38(23).

Sec. 27-5. Prohibiting purchase or possession of tobacco products by minors.

(a) No person shall sell to, distribute to, purchase for or knowing permit the purchase by any person less than eighteen (18) years of age, knowing or having reason to believe that such person is less than eighteen (18) years of age, any tobacco product, including but not limited to cigarettes and cigars. No tobacco product may be sold from a vending machine (i) except in compliance with subsection (e) and (ii) unless notice is posted on the machine in a conspicuous manner and place indicating that the purchase or possession of tobacco products by minors is unlawful.

(b) No person less than eighteen (18) years of age shall purchase or possess any tobacco product including but not limited to cigarettes or cigars. The provisions of this subsection shall not be applicable to the possession of tobacco products by a person less than eighteen (18) years of age making a delivery of tobacco products in pursuit of his employment.

(c) No person shall sell or distribute a tobacco product to any individual who does not demonstrate by producing a driver's license or similar photo identification issued by a government agency, that the individual is at least eighteen (18) years of age. Such identification is not required from an individual whom the person has reason to believe is at least eighteen (18) years of age or whom the person knows is at least eighteen (18) years of age. This subsection shall not apply to mail order sales.

(d) A violation of subsection (a), (b), or (c) by an individual or by a separate retail establishment shall be punishable by a civil penalty not to exceed fifty dollars (\$50.00) for a first violation and a civil penalty not to exceed one hundred dollars (\$100.00) for a second violation. However, a third or subsequent violation of subsection (a) shall be punishable by a civil penalty not to exceed two hundred and fifty dollars (\$250.00). A third or subsequent violation of subsection (b) shall be punishable by a civil penalty not to exceed one hundred dollars (\$100.00) and the judge in his discretion may enter an order pursuant to subdivision 9 of Section 16.2-278.8 of the Code of Virginia. The commonwealth's attorney may bring an action to recover the civil penalty, which shall be paid into the city treasury. Any law enforcement officer may issue a summons for a violation of subsection (a), (b), or (c).

(e) (1) Cigarettes shall only be sold in sealed packages provided by the manufacturer, with the required health warning. The proprietor of every retail establishment which offers for sale any tobacco product, including but not limited to cigarettes and cigars, shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco products to any person under eighteen (18) years of age is prohibited by law. A violation of this subsection shall be punishable by a civil penalty not to exceed fifty dollars (\$50.00). No filing fee or other fee or cost shall be charged to the city when instituting an action under this subsection.

(2) No person shall operate a vending machine which dispenses tobacco products unless such a machine is located in:

(i) a place that is not open to the general public and is not generally accessible to minors; or

(ii) a place that is open to the general public. Such a vending machine shall be inside the establishment and unless the vending machine is at least ten feet from any public entrance to the establishment, or the sale of a token is required to operate such a machine, it shall be placed within the normal unobstructed line of sight of the proprietor or his employees.

(3) A violation of this subsection shall be punishable by a civil penalty not to exceed one hundred dollars (\$100.00). No filing fee or other fee or cost shall be charged to the city when instituting an action under this subsection.

(f) Nothing in this section shall be construed to create a private cause of action. (Code 1959, § 22-7; Ord. No. O-96-207, 7-9-96)

Sec. 27-6. (Re pealed by Ord. No. O- 95- 307, 11- 15- 95)

Sec. 27-7. Fish ing from bridges, etc.

It shall be unlawful for any person to fish from any public bridge, causeway, trestle or viaduct within the city. (Code 1959, § 22-12)

Sec. 27-8. Gam bling.

Any person who shall bet, wager or play at any game for money or other thing of value, in violation of the laws of the state, shall be guilty of a class 3 misdemeanor. (Code 1959, § 22-13)

State law reference—Gambling, Code of Virginia, § 18.2-325 et seq.

Sec. 27-9. Ma li cious mis chief, van dal ism.

It shall be unlawful for any person to willfully damage, deface, injure, remove, carry or take away or otherwise unlawfully harm or assume control of any property whether public or private, real or personal, which is not his own. (Code 1959, § 22-14)

State law reference—Injuring, etc., property, Code of Virginia, § 18.2-137 et seq.

Sec. 27- 10. In toxi ca tion, etc., in pub li c places.

If any person profanely curses or swears or is intoxicated in public, whether such intoxication results from alcohol, narcotic drug or other intoxicant or drug of whatever nature, such person shall be deemed guilty of a class 4 misdemeanor and shall be taken and held in custody by the police or in the city jail until sober, or

until no longer under the influence of such intoxicant. Further, a law enforcement officer may authorize the transportation, by police or deputy or otherwise, of public inebriates to a court approved detoxification center in lieu of arrest; however, no person shall be involuntarily detained in such center. (Code 1959, § 22-15; Ord. of 1-10-78; Ord. No. O-88-066, § 1, 4-12-88; Ord. No. O-90-307, 10-9-90)

State law reference—Similar provisions, Code of Virginia, § 18.2-388.

Sec. 27- 11. Re moval of warn ing lights, bar ri ers, etc.

No unauthorized person shall remove any lantern, rope, light, sign or barrier lawfully hung, stretched or erected in the streets of the city or elsewhere for the purpose of safeguarding the public. (Code 1959, § 22-16)

Sec. 27- 12. Obscen ity.

The provisions of state law governing obscene items are hereby adopted by reference by the city and shall be enforced by the police department. (Code 1959, §§ 22-19-22-23)

Cross references—Lectures, shows, etc., on sexual matters, § 6-4, indecent and obscene shows, § 6-5.

State law reference—Obscenity, Code of Virginia, § 18.2-372 et seq.

Sec. 27- 13. Abu sive and in sult ing lan guage.

If any person shall in the presence or hearing of another curse or abuse such other person, or use any violent abusive language to such person concerning himself or any of his relatives, or otherwise use such language under circumstances briefly calculated to provide a breach of the peace, he shall be guilty of a class 3 misdemeanor. (Code 1959, § 22-18; Ord. No. O-82-200, § 1, 9-28-82)

Sec. 27- 13.1. Pro fane swear ing in pub li c.

If any person profanely curse or swear in public he shall be guilty of a class 4 misdemeanor. (Ord. No. O-88-231, § 1, 9-13-88)

State law reference—Profane swearing, Code of Virginia, § 18.2-388.

Sec. 27- 14. Re sist ing, etc., offi cials.

(a) If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the commonwealth, witness, any law-enforcement officer or any other employee of the City in performance of his duties as such, including any contractor or any other person in the execution of any work for the City of Lynchburg, or fails or refuses without just cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror, witness, law-enforcement officer, other city employee, contractor or other persons engaged in the execution of any work for the city, he shall be guilty of a class 3 misdemeanor.

(b) If any person, by threat, or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, witness, or any law-enforcement officer, lawfully engaged in his duties as such, or to obstruct or impede the administration of justice in any court, he shall be deemed guilty of a class 1 misdemeanor.

(c) If any person by threats of bodily harm or force, knowingly attempts to intimidate or impede any employee of the city in the discharge of his duty, or by threat or force knowingly attempts to intimidate or impede any contractor or any other person in the execution of any work for the City of Lynchburg, he shall be guilty of a class 1 misdemeanor. (Code 1959, § 22-24; Ord. No. O-82-200, § 1, 9-28-82; Ord. No. O-89-230, § 1, 9-12-89; Ord. No. O-94-221, 9-13-94)

State law reference—Interference with administrative justice, Code of Virginia, § 18.2-460

Sec. 27-14.1. Interference with law enforcement animals

Any person who willfully torments, beats, kicks, strikes, injures, taunts, or otherwise mistreats an animal owned by the police department or the sheriff's department or who willfully interferes with the lawful performance of such animal in a law enforcement activity shall be guilty of a class 2 misdemeanor. Any person who willfully touches such animal in any manner after being directed not to do so by a police officer or deputy sheriff shall be guilty of a class 4 misdemeanor. (Ord. No. O-95-135, 6-13-95, eff. 8-1-95)

Sec. 27-15. Prostitution—Generally.

Any person who, for money or its equivalent, commits adultery or fornication or any act in violation of Section 18.2-361 of the Code of Virginia or offers to commit adultery or fornication or any act in violation of Section 18.2-361 of the Code of Virginia, and thereafter does any substantial act in furtherance thereof, shall be guilty of being a prostitute, or prostitution, which shall be punishable as a class 1 misdemeanor. (Code 1959, § 22-27; Ord. No. O-89-268, § 1, 10-10-89)

State law reference—Similar provisions, Code of Virginia, § 18.2-346.

Sec. 27-16. Same—Bawdy houses.

(a) It shall be unlawful for any person to keep any bawdy place, or to reside in or at or visit, for immoral purposes, any such bawdy place. Each and every day such bawdy place shall be kept, resided in or visited, shall constitute a separate offense. In a prosecution under this section the general reputation of the place may be proved.

(b) As used in this Code, “bawdy place” shall mean any place within or without any building or structure which is used or is to be used for lewdness, assignation or prostitution. (Code 1959, § 22-26)

State law reference—Similar provisions, Code of Virginia, § 18.2-347.

Sec. 27-17. Same—Aiding prostitution or illicit sexual intercourse.

It shall be unlawful for any person, with knowledge of, or good reason to believe, the immoral purpose of such visit, to take or transport or assist in taking or transporting, or offer to take or transport on foot or in any way, any person to a place, whether within or without any building or structure, used or to be used for the purpose of lewdness, assignation or prostitution within this city; or procure or assist in procuring for the purpose of illicit sexual intercourse, or to give any information or direction to any person with intent to enable such person to commit an act of prostitution.

State law reference—Similar provisions, Code of Virginia, § 18.2-348.

Sec. 27-18. Same—Using vehicles.

It shall be unlawful for any owner or chauffeur of any vehicle, with knowledge or reason to believe the same is to be used for such purpose, to use the same or to allow the same to be used for the purpose of prostitution or unlawful sexual intercourse, or to aid or promote such prostitution or unlawful sexual intercourse by the use of any such vehicle.

State law reference—Similar provisions, Code of Virginia, § 18.2-349.

Sec. 27-18.1. Soliciting for prostitution.

Any person who, within the limits of the city, offers money or its equivalent to another for the purpose of engaging in sexual acts as defined in Sec. 18.2-346 and Sec. 18.2-361 of the Code of Virginia and thereafter

does any substantial act in furtherance thereof shall be guilty of solicitation of prostitution and shall be guilty of a class 1 misdemeanor. (Code 1959, § 22-28.1; Ord. of 2-13-79; Ord. No. O-89-268, § 1, 10-10-89; Ord. No. O-98-044, 3-24-98)

Sec. 27- 19. Work ing or trans act ing busi ness on Sun day.

(a) On the first day of the week, commonly known and designated as Sunday, no person shall engage in work, labor or business or employ others to engage in work, labor or business except in the following industries and businesses:

- (1) Transportation by whatever means and supporting facilities;
- (2) Public services and utilities, manufacturing, processing and plant operation of all types;
- (3) Publishing, including the distribution and sale of the products thereof;
- (4) Servicing, fueling and repair of motor vehicles, boats and aircraft and the selling of parts and supplies therefor;
- (5) Operation of motion picture theatres and the production of radio and television programs;
- (6) Medical services; and other services on an emergency basis;
- (7) Sports, athletic events and the operation of historic, entertainment and recreational facilities, and the sale or rental of boats, and swimming, fishing and boating equipment;
- (8) Agriculture, including the operation of nurseries and florist establishments;
- (9) Preparation and sale of prescription and nonprescription drugs and the sale of medical and hygienic supplies and baby supplies;
- (10) Wholesale food warehouses and ship chandleries;
- (11) Restaurants and delicatessens;
- (12) Janitorial, custodial and like services;
- (13) Operation of hotels and motels and funeral homes and cemeteries;
- (14) Mining and supporting facilities;
- (15) Sale of food, ice and beverages;
- (16) Sale of tobacco and related products;
- (17) A drugstore, a majority of the sales receipts of which consist of prescription and nonprescription drugs, health and beauty aids;
- (18) Sale of novelties, cameras, photographic supplies (including film and flashbulbs), antiques, pictures, paintings, art supplies and souvenirs, animals as pets, including tropical fish, and pet supplies;
- (19) Sale or leasing of noncommercial property and mobile homes;
- (20) Providing of any service, product or other thing by means of a mechanical device not requiring the labor of any person;
- (21) Sale of any item, provided such sale takes place on property owned by a county, city or town and the property on which the sale takes place has been designated by the appropriate governing body on a case-by-case basis, as the site of a festival, trade show, convention or other type of public celebration or gathering.

This section shall not be applicable to works of charity conducted solely for charitable purposes by any person or organization not organized or engaged in business for a profit.

(b) Any person violating the provisions of this section shall be guilty of a misdemeanor.

(c) Nothing contained herein shall be construed to permit any fine or penalty against any employee or agent who has been caused, directed or authorized by his employer to violate any provision of this section, in which case the employer shall be subject to the sanctions prescribed by this section. (Code 1959, § 22-29)

Sec. 27- 20. Ob ser vance of Sat ur day as Sab bath.

The penalties imposed by section 27-19 shall not be incurred by any person who conscientiously believes that the seventh day of the week ought to be observed as a Sabbath, and actually refrains from all secular business and labor on that day, provided he does not compel an apprentice or servant, not of his belief, to do secular work or business on a Sunday.

State law reference—Similar provisions, Code of Virginia, § 18.2-343.

Sec. 27- 21. Re pealed. (O- 80- 165)

Editor's note—Ord. No. O-80-165, § 1, enacted June 10, 1980, repealed § 27-21, containing provisions relative to dancing in dance halls on Sundays and exceptions thereto. Former § 27-21 was derived from Code 1959, § 22-30.

Sec. 27- 22. Tres pass after hav ing been for bid den to do so.

If any person without authority of law goes upon or remains upon the lands, buildings or premises of another, or any part, portion or area thereof, after having been forbidden to do so, either orally or in writing, by the owner, lessee, custodian or other person lawfully in charge thereof, or after having been forbidden to do so by a sign or signs posted by such persons or by the holder of any easement or other right-of-way authorized by the instrument creating such interest to post such signs upon such lands, structures, premises or portion or area thereof at a place or places where it or they may be reasonably seen, or if any person, whether he is the owner, tenant or otherwise entitled to the use of such land, building or premises, goes upon, or remains upon such land, building or premises after having been prohibited from doing so by a court of competent jurisdiction by an order issued pursuant to Sections 16.1-253, 16.1-253.1, 16.1-278.2 through 16.1-278.6, 16.1-278.8, 16.1-278.14, 16.1-278.15, or 16.1-279.1 of the Code of Virginia, or an ex parte order issued pursuant to Section 20-103 of the Code of Virginia, and after having been served with such order, he shall be guilty of a class 1 misdemeanor. This section shall not be construed to affect in any way the provisions of Sections 18.2-132 through 18.2-136 of the Code of Virginia. (Code 1959, § 22-31; Ord. No. O-88-313, § 1, 12-13-88; Ord. No. O-92-240, 8-11-92)

State law reference—Similar provisions, Code of Virginia, § 18.2-119.

Sec. 27- 23. Lo ca tion of shoe shine es tab lish ments.

Any person who shall conduct a shoeshine establishment on the streets or sidewalks of the city shall be deemed guilty of a class 4 misdemeanor. (Tax Code 1941, § 65)

Cross reference—License fee for shoeshine establishments, § 36-93.

Sec. 27- 24. Mi nors oper at ing coin- oper ated ma chine s.

It shall be unlawful for any proprietor, owner, operator, bailee, or custodian of any slot machine licensed under the provisions of section 36-104, other than vending machines which do nothing except to vend merchandise and other than machines which provide services only, knowingly to permit any person under the age of sixteen (16) years to operate the same. Any person violating the provisions of this section shall be deemed guilty of a class 4 misdemeanor. (Tax Code 1941, § 72(h))

Cross references—Commercial recreation centers, § 6-61 et seq.; license fee for vending machines, slot machines, etc., § 36-104.

Sec. 27-25. Closeout sales, etc., restrictions.

During the period of a sale licensed under Sections 36-85 through 36-91, the licensee shall:

- (a) Not employ any untrue, deceptive or misleading advertising and shall conduct said sale in strict conformity with any advertising or holding out incident thereto.
- (b) Keep available for inspecting officials at the place of sale, a duplicate copy of the inventory submitted with the application, and make no additions whatsoever to the stock of goods set forth in said inventory.
- (c) Keep any other goods separate and apart from the goods listed in the filed inventory as being objects of sale and shall make such distinction clear to the public by placing tags on all inventoried goods in and about the place apprising the public of the status of such goods.

Any person violating this section shall be guilty of a class 2 misdemeanor. (Tax Code 1941, § 63.1 (7))

Sec. 27-26. Auction sales by retailers, wholesalers or manufacturers.

(a) It shall be unlawful for any retail merchant, wholesale merchant or manufacturer to sell, dispose of or offer for sale at public auction, or cause or permit to be sold, disposed of or offered for sale at public auction, any merchandise, product or commodity whatsoever, whether the same be their property, or whether they sell the same as agents or employees of others; provided, however, that this section shall not apply to sales by trustees or receivers of a retailer, wholesaler or manufacturer who is actually going out of business, or where said sale by said trustee or receiver is a bona fide sale to subject the property sold for the benefit of the creditors of said retailer, wholesaler or manufacturer; nor to sales in judicial proceedings or sales on behalf of licensed pawnbrokers of unredeemed pledges in the manner provided by law; nor to sales of household or kitchen furniture or other personal property which has been in use, except that where any merchant, local or nonresident, shall purchase or take on consignment any used or secondhand articles for the purpose of reselling the same, the sale thereof at public auction in the city is expressly prohibited under the terms of this section; nor to the sale of the stock on hand of any person who shall have held a merchant's license for a period of one year next preceding such sale, and have been continuously in business in the city as a retail or wholesale merchant or manufacturer and who is going out of business in said city; and provided, further, that such sale at public auction of the stock on hand of such merchant or manufacturer shall be held on successive days, Sundays and legal holidays excepted, and shall not continue for more than thirty (30) days in all, and provided further:

- (1) That the merchandise shall be sold at public auction for cash only;
- (2) That the merchant shall publicly and conspicuously advertise on the front of the storehouse or building in which the said auction sale is held the fact that the said merchant is going out of business;
- (3) That at the auction sale no merchandise shall be offered except what has been a bona fide part of the stock of merchandise of said merchant for more than sixty (60) days next preceding the commencement of the said auction sale; and
- (4) That the merchant, before the commencement of said auction sale, shall file with the commissioner of the revenue of the city an inventory of the said merchandise to be offered at such auction sale, with the cost price to the said merchant of each article shown thereon and with an affidavit thereto attached made by the said merchant, or his duly authorized representative, to the effect that the said inventory is true and correct, that said merchant is going out of business, and that the merchandise to be offered at such auction sale is listed on said inventory and has been a bona fide part of the said merchant's stock of merchandise for more than sixty (60) days next preceding the commencement of the said auction sale;
- (5) That it shall be unlawful for any person to sell, dispose of or offer for sale at public auction, or cause or permit to be sold, disposed of or offered for sale at public auction, any merchandise whatsoever, whether the same be his property or whether he sells the same as agent or employee of others, between the hours of 6:00 p.m. and 8:00 a.m., or at any time except in a well-lighted place so that each article offered for sale

may be plainly seen by all parties bidding thereon, and all announcements made relating to the character, make or value of the article offered must be true and be made in a voice loud enough to be distinctly heard by all parties bidding thereon.

(b) Any person violating any of the provisions of this section shall be deemed guilty of a class 2 misdemeanor, and each article sold or offered for sale shall constitute a separate offense under this section. (Tax Code 1941, § 27)

Cross reference—License fee for going-out-of-business sales, etc., § 36-85.

Sec. 27-27. Urination or defecation in public.

Any person who urinates or defecates in public or in any place open to public view except in a bathroom, restroom or other facility specifically designed for such purpose shall be guilty of a class 4 misdemeanor. (Ord. No. O-01-126, 6-26-01)

Secs. 27-28—27-36. Reserved.

ARTICLE II. CRIMES AGAINST PEACE AND ORDER

DIVISION 1. GENERALLY

Sec. 27-37. Repealed. (Ord. No. O-81-158, 7-14-81)

Sec. 27-37.1. Repealed. (Ord. No. O-90-307, 10-9-90)

Editor's note—See the editor's note to § 27-37.2.

Sec. 27-37.2. Disorderly conduct in public places.

A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a the risk thereof, he:

(a) In any street, highway, public building, or while in or on a public conveyance, or public place, engages in conduct having a tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed; or

(b) Willfully or being intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature disrupts any meeting of the governing body of the City of Lynchburg or any division or agency thereof, or of any school, literary society or place of religious worship, if the disruption (i) prevents or interferes with the orderly conduct of the meeting or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed; or

(c) Willfully or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption (i) prevents or interferes with the orderly conduct of the operation or activity or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed.

However, conduct prohibited under subsections (a), (b) or (c) shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under other provisions of the City Code or the Code of Virginia.

The person in charge of any building, place, conveyance, meeting, operation or activity may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any persons who may be called upon for such purposes.

A person violating any provision of this section shall be guilty of a class 1 misdemeanor. (Ord. No. O-90-307, 10-9-90)

Editor's note—Ord. No. O-90-307, adopted 10-9-90, repealed § 22-37.1, pertaining to disorderly conduct in public places, and enacted new provisions relative to the same subject and designated as a new § 27-37.2.

Secs. 27-38—27-45. Reserved.

DIVISION 2. RIOT AND UNLAWFUL ASSEMBLY*

Sec. 27-46. Obstructing free passage of others.

Any person or persons who in any public place or on any private property open to the public unreasonably or unnecessarily obstructs the free passage of other persons to and from or within such public place or private property and who shall fail or refuse to cease such obstruction or move on when requested to do so by the owner or lessee or agent or employees of such owner or lessee or by a duly authorized law enforcement officer shall be guilty of a class 1 misdemeanor. Nothing in this section shall be construed to prohibit lawful picketing. (Code 1959, § 22-32)

State law reference—Similar provisions, Code of Virginia, § 18.2-404.

Sec. 27-47. What constitutes a riot; punishment.

(a) Any unlawful use, by three (3) or more persons acting together, of force or violence which seriously jeopardizes the public safety, peace or order is riot.

(b) Every person convicted of participating in any riot shall be guilty of a class 1 misdemeanor. (Code 1959, §§ 22-34, 22-36)

State law reference—Similar provisions, Code of Virginia, § 18.2-405.

Sec. 27-48. What constitutes an unlawful assembly; punishment.

(a) Whenever three (3) or more persons assembled share the common intent to advance some lawful or unlawful purpose by the commission of an act or acts of unlawful force or violence likely to jeopardize seriously public safety, peace or order, and the assembly actually tends to inspire persons of ordinary courage with well-grounded fear of serious and immediate breaches of public safety, peace or order, then such assembly is an unlawful assembly.

(b) Every person who participates in any unlawful assembly shall be guilty of a class 1 misdemeanor. (Code 1959, §§ 22-34, 22-36)

State law reference—Similar provisions, Code of Virginia, § 18.2-406.

Sec. 27-49. Remaining after warning to disperse.

Every person, except the owner or lessee of the premises, his family and nonrioting guests, and public officers and persons assisting them, who remains at the place of any riot or unlawful assembly after having been lawfully warned to disperse, shall be guilty of a class 3 misdemeanor. (Code 1959, § 22-37)

State law reference—Similar provisions, Code of Virginia, § 18.2-407.

***Cross reference**—Assemblies, parades and processions, § 25-358 et seq.

State law reference—Riot and unlawful assembly, Code of Virginia, § 18.2-404 et seq.

Sec. 27-50. Resisting or obstructing execution of legal process.

Every person acting jointly or in combination with any other person to resist or obstruct the execution of any legal process shall be guilty of a class 1 misdemeanor. (Code 1959, § 22-39)

State law reference—Similar provisions, Code of Virginia, § 18.2-409.

Sec. 27- 51. Com mis sion of cer tain of fences dur ing state of riot or in sur rec tion.

Any person, who after the publication of a proclamation by the governor, or who after lawful notice to disperse and retire, resists or aids in resisting the execution of process in any county, city or town declared to be in a state of riot or insurrection, or who aids or attempts the rescue or escape of another from lawful custody or confinement, or who resists or aids in resisting a force ordered out by the governor or any sheriff or other officer to quell or suppress an insurrection or riot, shall be guilty of a class 1 misdemeanor. (Code 1959, § 22-40)

State law reference—Similar provisions, Code of Virginia, § 18.2-413.

Sec. 27- 52. In jury to prop erty or per sons.

If any person or persons, unlawfully or riotously assembled, pull down, injure, or destroy, or begin to pull down, injure or destroy any dwelling house or other building, or assist therein, or perpetrate any premeditated injury on the person of another, he shall be guilty of a class 1 misdemeanor. (Code 1959, § 22-41)

State law reference—Similar provisions, Code of Virginia, § 18.2-414.

Sec. 27- 53. Con spir acy; in cite ment, etc., to riot.

Any person who conspires with others to cause or produce a riot, or directs, incites or solicits other persons who participate in a riot to acts of force or violence, shall be guilty of a class 1 misdemeanor.

State law reference—Similar provisions, Code of Virginia, § 18.2-408.

Sec. 27- 54. Dis per sal of un law ful or ri ot ous as sem blies; du ties of offi cers.

When any number of persons, whether armed or not, are unlawfully or riotously assembled, the police officials of the city shall go among the persons assembled or as near to them as safety will permit and command them in the name of the city immediately to disperse. If upon such command the persons unlawfully assembled do not disperse immediately, such officer may use such force as is reasonably necessary to disperse them and to arrest those who fail or refuse to disperse. To accomplish this end, the law enforcement officer may request and use the assistance and services of private citizens. Every endeavor shall be used, both by such officer and by the officer commanding any other force, which can be made consistent with the preservation of life, to induce or force those unlawfully assembled to disperse before an attack is made upon those unlawfully assembled by which their lives may be endangered.

State law reference—Similar provisions, Code of Virginia, § 18.2-411.

Sec. 27- 55. Im mu nity of offi cers and oth ers in quell ing a riot or un law ful as sem bly.

No liability, criminal or civil, shall be imposed upon any person authorized to disperse or assist in dispersing a riot or unlawful assembly for any action of such person which was taken after those rioting or unlawfully assembled had been commanded to disperse, and which action was reasonably necessary under all the circumstances to disperse such riot or unlawful assembly or to arrest those who failed or refused to disperse.

State law reference—Similar provisions, Code of Virginia, § 18.2-412.

Secs. 27-56—27-66. Reserved.

ARTICLE III. WEAPONS*

DIVISION 1. GENERALLY

Sec. 27-67. Throw ing mis siles, shoot ing; use of bows and ar rows—Gen er ally.

(a) No person shall in any street or public place recklessly or intentionally throw any stone, ball, or missile of any character in such a manner as to cause bodily injury to any person or damage to the property of any person, or discharge anywhere within the city limits any firearm, gravel shooter, air rifle or air gun, or discharge an arrow from a bow, except upon a properly located and constructed gunnery or archery range, approved by the chief of police, as hereinafter provided. The above provision shall not apply to peace officials or members of the armed forces of this state or the United States while acting in performance of their duties as such.

(b) No minor under the age of eighteen (18) shall shoot or discharge any firearm, gravel shooter, air rifle, air gun or arrow from a bow, except upon a properly located, constructed and approved gunnery or archery range, and then only under the immediate supervision of an adult.

(c) Nothing herein shall apply to the use of a bow ten (10) pounds or less of draw weight with a blunt rubber-tipped arrow.

(d) Any person violating the provisions of this section shall be guilty of a class 1 misdemeanor. (Code 1959, § 33-1; Ord. No. O-81-166, § 1, 8-11-81; Ord. No. O-92-056, 2-25-92)

Sec. 27-67.1. Same—Ex ception.

(a) The provisions of section 27-67 shall not apply to shotguns discharging pellets using number 5, 6, 7, 8 or 9 shot under the following conditions:

(1) On land that is twenty-five (25) acres or more of contiguous area, and

(2) Used primarily for agricultural purposes, and

(3) The landowner has applied for an annual permit from the chief of police to use his property for this purpose.

The permit shall be granted by the chief of police or his designee if the application meets the requirements of this section, and

(4) Any person or persons discharging a shotgun as set forth above shall, at all times, while engaged in such activity, have in his possession written permission from the landowner to discharge such weapon on the premises.

(5) All hunting must be done in compliance with the laws of the Commonwealth of Virginia and the rules and regulations of the Board of Game and Inland Fisheries.

(6) 00 to #4 shot may be used in shotguns for the sole purpose of hunting deer.

(7) No person or persons shall hunt deer in the city by the use of a dog or dogs.

***Charter reference**—Power of city council in connection with firearms, § 38(20).

State law reference—Dangerous use of firearms or other weapons, Code of Virginia, § 18.2-279 et seq.

(b) No person shall discharge a shotgun within one hundred (100) yards of any building, dwelling, street, sidewalk, alley, roadway or public land or public place within the city limits.

(c) Whenever land, which has been designated as a hunting area pursuant to the provisions of this section, has been posted in accordance with the provisions of Section 18.2-134.1 of the State Code, no one shall possess a strung bow or an uncased compound bow while on such land. Provided however, that the prohibition against the possession of a strung bow or an uncased compound bow shall not apply when such bow is being used for target shooting in an area that has been approved as an archery range pursuant to section 27-67 of this article.

(d) Any person engaging in hunting must comply with any conditions or restrictions imposed by the Chief of Police as a part of the permit. (Code 1959, § 33-1; Ord. of 9-7-76; Ord. No. O-92-048, 2-11-92; Ord. No. O-92-372, 12-8-92)

Sec. 27- 67.2. Same—Exception.

(a) The provisions of Section 27-67 shall not apply to any hunting performed by or authorized by the city's wildlife management specialist as part of the city's effort to reduce the size of its deer population. Provided that any hunting authorized by the city's wildlife management specialist must be conducted in accordance with any conditions or restrictions imposed by the wildlife management specialist and in compliance with the laws of the Commonwealth of Virginia and the rules and regulations of the Board of Game and Inland Fisheries.

(b) Any person obtaining authorization from a game warden pursuant to Section 29.1-529 of the Code of Virginia permitting the killing of deer must comply with the provisions of this section and all killing of deer must be authorized by the city's wildlife management specialist under such conditions and restrictions as the wildlife management specialist deems appropriate. (Ord. No. O-92-048, 2-11-92)

Sec. 27- 68. Will fully discharging fire arms in public places.

If any person willfully discharge or cause to be discharged any firearm in any street in the city, or in any place of public business or place of public gathering, he shall be guilty of a class 1 misdemeanor; provided, that this section shall not apply to any law enforcement officer in the performance of his official duties nor to any other person whose said willful act is otherwise justifiable or excusable at law in the protection of his life or property, or is otherwise specifically authorized by law. (Code 1959, § 33-1)

State law reference—Similar provisions, Code of Virginia, § 18.2-280.

Sec. 27- 69. Furnishing certain weapons to minors.

If any person sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor a pistol, dirk, switchblade knife, bowie knife or nun chaku, having good cause to believe him to be a minor, such person shall be guilty of a class 4 misdemeanor. (Code 1959, § 33-2)

State law reference—Similar provisions, Code of Virginia, § 18.2-309.

Sec. 27- 70. Prohibiting the selling or having in possession blackjacks, etc.

If any person sell or barter, or exhibit for sale or for barter, or give or furnish, or cause to be sold, bartered, given or furnished, or has in his possession, or under his control, with the intent of selling, bartering, giving or furnishing, any blackjack, brass or metal knucks, switchblade knife, nun chaku or like weapons, such person shall be guilty of a class 4 misdemeanor. The having in one's possession of any such weapon shall be prima facie evidence, except in the case of a conservator of the peace, of his intent to sell, barter, give or furnish the same. (Code 1959, § 33-3)

State law reference—Similar provisions, Code of Virginia, § 18.2-311.

Sec. 27- 71. Repealed. (Ord. No. O- 92- 158)

Sec. 27-71.1. Possession of a loaded firearm prohibited in public places.

It shall be unlawful for any person under the age of eighteen (18) to have or carry in his possession while in any public place or upon any public highway a loaded firearm. This section shall not apply to a person (i) in his own home or curtilage thereof, (ii) acting at the time in lawful defense of persons or property, (iii) engaged in lawful hunting, nor (iv) engaged in marksmanship practice at established ranges.

Any person violating the provisions of this section will be punished by a fine of no more than one hundred dollars (\$100) and the firearm may be forfeited to the Commonwealth of Virginia pursuant to provisions of Section 18.2-310 of the State Code. (Ord. No. O-91-205, 9-10-91)

Sec. 27-72. Forfeiture of certain weapons used in commission of criminal offense.

All pistols, shotguns, rifles, dirks, bowie knives, switchblade knives, razors, slungshots, brass or metal knucks, blackjacks and other weapons used by any person or persons in the commission of a criminal offense, may, upon conviction of such person or persons so using the same, be forfeited to the commonwealth by order of the court trying the case, which shall make such disposition of such weapons as it deems proper by entry of an order of record.

State law reference—Similar provisions, Code of Virginia, § 18.2-310.

Sec. 27-73. Removing, altering, etc., serial number or other identification on fire arm.

Any person who intentionally removes, defaces, alters, changes, destroys or obliterates in any manner or way or who or which causes to be removed, defaced, altered, changed, destroyed or obliterated in any manner or way the name of the maker, model, manufacturer's or serial number, or any other mark or identification on any pistol, shotgun, rifle, machine gun or any other firearm shall be guilty of a class 1 misdemeanor.

State law reference—Similar provisions, Code of Virginia, § 18.2-311.1

Secs. 27-74—27-80. Reserved.

DIVISION 2. GUNNERY RANGES

Sec. 27-81. Certificate of approval required.

It shall be the duty of every person who has installed or who shall hereafter install, set up or operate a gunnery or archery range, to apply to the chief of police for a certificate of approval of said range before operating the same. (Code 1959, § 33-1)

Sec. 27-82. Minimum requirements.

Gunnery ranges to be approved by the chief of police shall comply with the following minimum requirements:

(a) All outdoor ranges shall be so located as not to be within two hundred (200) yards, at the nearest point, of any city street, alley, right-of-way, parkway, playfield, or other public property, or any dwelling house or commercial establishment, except those occupied by the range operator.

(b) All such outdoor ranges shall be clearly marked as such with sufficient signs indicating the location of the range and warning the public.

(c) Adequate backstops shall be provided to confine all shot, shells, bullets, pellets or other missiles of similar character.

(d) All indoor ranges located entirely within an enclosed building shall have adequate backstops to confine all shot, shells, bullets, pellets or other missiles of similar character. (Code 1959, § 33-1)

Sec. 27-83. Conditions of issuance.

The chief of police in issuing certificates of approval for gunnery ranges may specify the time and manner of shooting and the type of firearm or ammunition which may be used on such ranges. No such certificate of approval shall be issued, except upon a finding by the chief of police after an inspection of the premises involved that the discharge of arrows from a bow, or the discharge of firearms upon such range will not jeopardize life or property, or be a source of annoyance to persons in the area. The certificate of approval may be revoked by the chief of police if the conditions change. No certificate of approval for such range shall be issued, except upon the application of the owner, lessee or persons lawfully in possession of the land, upon which is located the range sought to be approved. (Code 1959, § 33-1)

Sec. 27-84. Appeal from denial, revocation.

In the event the chief of police shall deny or revoke the certificate of approval as herein provided, such applicant shall have the right to appeal to the council by filing a notice of appeal with the city manager within ten (10) days from the date of such denial or revocation. (Code 1959, § 33-1)

Secs. 27-85—27-95. Reserved.**ARTICLE IV. ALARM SYSTEMS***

Editor's note—Secs. 27-96—27-101 were repealed by Ord. No. O-91-276, 11-12-91, eff. 1-1-92, and were replaced by Secs. 27-102—27-115.

Sec. 27-102. Applicability.

This Article is intended to regulate the activities and responsibilities of those persons who purchase, lease or rent, and those persons who own or conduct the business of selling, leasing, renting, maintaining or monitoring alarm systems, devices or services. It is further intended to encourage the improvement in reliability of those systems, devices and services and to ensure that emergency response personnel will not be unduly diverted from responding to actual criminal activity or other emergencies as a result of responding to false alarms. (Ord. No. O-91-276, 11-12-91, eff. 1-1-92)

Sec. 27-103. Definitions.

Except where otherwise indicated by the context, the following definitions shall apply in the interpretation and enforcement of this Article.

(a) Alarm agent: Any person who is employed by an alarm business, either directly or indirectly, whose duties include any of the following: maintaining, servicing, repairing any alarm or alarm system in or on any building, place or premises. Any person whose duties consist solely of resetting an alarm following activation shall not be deemed to be an alarm agent.

(b) Alarm business: The business, by an individual, partnership, corporation, or other entity, of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing or monitoring an alarm or alarm system in or for any building, structure or facility.

(c) Alarm or alarm system: Any mechanical or electrical device that is used to detect unauthorized entry into buildings or alerting others of any unlawful activity, fire or other emergency within buildings or on premises.

(d) Alarm user: Any person, firm, partnership, corporation, or business who leases, rents, purchases or uses any monitored or proprietor alarm, alarm system, device or service.

- (e) Audible alarm: A device designed for the detection of an unauthorized entry of premises or fire which when activated generates an audible sound on the premises.
- (f) Automatic dialing device: A device that is interconnected to a telephone line and programmed to select a predetermined telephone number and transmit by voice methods or code signal an emergency message indicating a need for emergency response.
- (g) Alarm coordinator: The Emergency Communications Administrator.
- (h) Emergency communications users committee: A committee composed of one sworn police officer, firefighter, sheriff's deputy, a member of the Lynchburg Public Works Department and a member of the Lynchburg Emergency Communications Center, with the emergency communications administrator as chairman.
- (i) False alarm: Any activation of an alarm system by failure, malfunction, accidental tripping, misoperation, misuse or negligent maintenance by the owner/user or lessee of the alarm system or his employee or agent or any other activation of an alarm system that results in a response by City of Lynchburg emergency personnel where an emergency situation does not exist. False alarms shall not include signals willfully activated by security alarm users upon good faith belief that an actual fire or attempted burglary, holdup, assault or unlawful entry is about to occur.
- (j) Monitored alarm: A device designed for the detection of an unauthorized entry in premises, fire or medical emergency and which, when activated, generates an inaudible signal to a monitoring station. A monitored alarm may also generate an audible sound on the premises.
- (k) Permittee: Any person who is granted an alarm user permit under this article.
- (l) Person: An individual, firm, partnership, joint venture, association, corporation, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular number.
- (m) Small business: Business occupying floor space of two thousand (2,000) square feet or less and employs no more than five (5) employees including owners and officers. (Ord. No. O-91-276, 11-12-91, eff. 1-1-92)

Sec. 27- 104. Alarm business.

The duties of an alarm business shall be as follows:

- (a) To install a state of the art alarm system and be available to maintain the alarm or alarm system in good working order and to take reasonable measures to prevent the occurrence of false alarms.
- (b) To instruct each of its alarm users and/or the principal occupants of the buildings or premises protected by an alarm system in the proper operation of the system. Such instruction will specifically include all necessary instructions in turning on and off the system and in avoiding false alarms.
- (c) To provide each purchaser and user with a copy of the pertinent provisions of this article relating to alarm user duties and false alarm assessments.
- (d) Upon selling, leasing or renting an inaudible alarm system:
- (1) To insure the City of Lynchburg's Emergency Communications Center is kept informed as to the name and telephone number of the primary person, and at least one alternate responsible for responding to the premises when the alarm has been activated.
- (2) To organize its central receiving station in order to be able to readily and positively identify the type of alarm, i.e., fire, burglary, robbery, or medical emergency, and the location of the alarm if there is more than one system.

(3) To maintain current records as to each of these alarm systems, devices, or services which shall include the name of the owner or occupant of the premises, the name and telephone number of the user or primary person, and at least one alternate responsible for responding to the premises when the alarm is activated, and information concerning whether the alarm system includes an audible alarm.

(4) To make notification of activated alarm systems in the manner prescribed by city policy, including reasonable information concerning the alarm system.

(5) The alarm business shall make every reasonable effort to arrange for either the alarm user, alarm agent or other responsible representative to go to the premises of an activated alarm system in order to be available to assist city emergency personnel in determining the reason for activation and securing the premises. In no event shall there be unreasonable delay in arriving at the location of the alarm. [Thirty (30) minutes shall be deemed as reasonable and shall commence upon notification of responding individual]. If city emergency personnel depart the premises prior to the arrival of the user, alarm agent, or other responsible representative, then the user, alarm business, or proprietor upon arrival at the location of the alarm signal may document their required response through telephonic notification to the city.

(e) Upon ceasing responsibility for a monitored alarm pursuant to this article, the alarm business shall promptly notify the alarm coordinator. Said written notice shall be sent within ten (10) days, giving pertinent information associated with the alarm site. (Ord. No. O-91-276, 11-12-91, eff. 1-1-92)

Sec. 27- 105. Alarm user and property owner/oc cu pant re spon si bil ity.

The duties of an alarm user shall be as follows:

(a) To instruct all personnel who are authorized to place the system or device into operation in the appropriate method of operation.

(b) To inform personnel who are authorized to place the alarm system into operation of the provisions of this article emphasizing the importance of avoiding false alarms. A current copy of the pertinent provisions of this article shall be maintained on the premises and be made available to persons who are authorized to place an alarm system into operation.

(c) The owner/occupant has the responsibility of re-setting and/or returning all alarm systems to service after an alarm trip or maintenance. The emergency response personnel will not re-set any alarm system.

(d) To inactivate or cause to be inactivated audible alarms within thirty (30) minutes of the notification of its activation. (Ord. No. O-91-276, 11-12-91, eff. 1-1-92)

Sec. 27- 106. Alarm user's per mits re quired.

(a) Every alarm user shall obtain an alarm user's permit from the city of Lynchburg for each alarm system. No alarm system located within the city shall be activated without the alarm user having first obtained an alarm user permit as described within this subsection. Such a permit shall be obtained from the City of Lynchburg within one hundred twenty (120) days from the effective date of this article or prior to the use of an alarm system which is installed subsequent to the expiration of one hundred twenty (120) days from the effective date of this article.

(1) The alarm user shall purchase an annual alarm user's permit for each alarm system within the corporate limits of the City of Lynchburg, which is intended and/or designed, when activated, to generate a response from one or more municipal public safety agencies. Effective on July 1, 1996, and for each year thereafter, unless otherwise changed by city council, the annual fee for the alarm permit shall be paid by the "alarm user" and imposed as follows:

a. Business/industry alarm system: fifty-five dollars (\$55)

b. Small business, non-profit and governmental agencies alarm system: forty-five dollars (\$45)

c. Residential alarm system: thirty dollars (\$30)

NOTE: An "audible alarm" system unconnected to a central station may require a user permit for one (1) year should the alarm generate more than four (4) false alarm responses in a single permit year from any public safety agency. All user permit requirements for audible alarm systems may be appealed to the emergency communications users committee.

(2) The application for an alarm user's permit shall be made on an alarm permit application form which is available from the emergency communications division. Payment of a the permit fee for each alarm system shall accompany the application to the city collections division.

(3) Every person applying for more than one alarm permit at one location shall pay the alarm user's permit fee for each permit up to five (5) permits. Regardless of the number of permits, the total fee shall not exceed five times the single permit fee for any one location.

(4) An alarm user's permit shall be displayed in a conspicuous place at the main entrance of the building observable from outside.

(5) The initial alarm permit may be issued at any time, however, all alarm permits expire on April 30th with renewal due between March 1 and May 1 of each year following the issuance of the permit. Permits are not transferable from one user to another user, or from one address to another address. It shall be the duty of the alarm user to maintain current permit information.

(b) No alarm system receivers shall be installed in the Lynchburg Emergency Communications Center.

(c) An alarm user whose permits has been revoked may apply for a reissued alarm permit in accordance with the fee schedule in Section 27-108 (j). (Ord. No. O-91-276, 11-12-91, eff. 1-1-92; Ord. No. O-93-112, 4-27-93; Ord. No. O-96-140, 5-28-96; Ord. No. O-00-009, 1-11-00, retroactive to 1-1-00)

Sec. 27- 107. Prohibition of automatic dialing devices.

(a) No person shall use or cause to be used any automatic telephone device or telephone attachment that directly or indirectly causes a public primary telephone trunk line of the Lynchburg Emergency Communications Center to be utilized and then reproduces a pre-recorded message or signal.

(b) Within sixty (60) days after the effective date of this article all existing automatic dialing devices programmed to select a public primary telephone trunk line of the city and then reproduce any pre-recorded message or signal shall be disconnected. (Ord. No. O-91-276, 11-12-91, eff. 1-1-92)

Sec. 27- 108. False alarms; penalty assessments and permit revocation.

(a) Any alarm system which has more than two (2) false alarms within a permit year shall be subject to service assessments as hereinafter provided and any alarm system which has ten (10) or more false alarms within a permit year shall be subject to permit revocation as hereinafter provided. NOTE: Sec. 27-108 shall not apply to newly (first time/original alarm systems) installed/activated alarm systems for the first thirty (30) days of operation.

(b) Notice of service assessment: Notice from the city to any permit holder shall be deemed to have been given on the date such notice is deposited in the U.S. mail, first class postage, prepaid, addressed to the permit holder at the address shown in the city's permit records or delivered by personal service to the premises. Failure to mail notice to an alarm business shall not impair or invalidate any notice furnished to the alarm user. The notice of service assessment shall contain at least the following information:

- (1) The amount of the assessed fee and number of false alarms during the permit year.
- (2) The dates and times that emergency personnel responded to each alarm.

(3) The fact that the service assessment must be paid within twenty (20) days following the date of the notice.

(4) The notice of intent to revoke the permit after ten (10) false alarms during the permit year.

(5) The right of appeal to the emergency communications users committee of which the emergency communications administrator is chairman.

(c) If the City of Lynchburg records more than two (2) false alarms within a permit year for any alarm system, the city shall notify the alarm user of such fact and direct that the user pay to the city a service assessment in the sum of fifty dollars (\$50.00) for the 3rd false alarm recorded, fifty dollars (\$50.00) for the 4th, fifty dollars (\$50.00) for the 5th, seventy-five dollars (\$75.00) for the 6th, one hundred dollars (\$100.00) for the 7th, one hundred twenty-five dollars (\$125.00) for the 8th, one hundred fifty (\$150.00) for the 9th, one hundred seventy-five (\$175.00) for the 10th, and two hundred dollars (\$200.00) for the 11th and all successive false alarms, to be paid within ten (10) days of each excessive false alarm. The alarm user must also submit a report to the city describing the actions taken or to be taken to discover and eliminate the cause of the false alarms. A copy of such notification shall be sent to the alarm business providing service or inspection to the user.

(d) If the alarm user submits a report as directed, the alarm coordinator shall determine if the actions taken or to be taken will prevent the reoccurrence of false alarms. The city shall notify the alarm user and the relevant alarm business in writing whether the permit will be revoked at that time. If the alarm permit is not to be revoked, then notification will be provided that if any subsequent false alarms occur within the permit year, the permit may be revoked without further notice on the tenth (10th) day after the date of the notice of revocation.

(e) If no report is submitted as required, or if the city determines that the actions taken or to be taken by the alarm user will not prevent the reoccurrence of false alarms, the city shall give notice to the alarm user and alarm business providing service that the permit will be revoked effective on the tenth (10th) day after the date of the notice of revocation.

(f) If the alarm user fails to pay a service assessment within the time provided after receipt of notification from the city as provided with this section, the city may summarily revoke the alarm user's permit through notification to the alarm user and to the alarm business providing service to the user, which notification shall be effective on the tenth (10th) day following the date of said notice of revocation.

(g) An alarm user whose permit has been revoked, shall be furnished notification of such revocation and shall within three (3) days after the date of said notice of revocation discontinue the use of the alarm system. It shall be unlawful for any alarm user to fail to disconnect such system within three (3) days as herein defined and such failure shall subject the alarm user to the penalties hereinafter provided.

(h) For purposes of any notification to be provided under the terms of this article, such notice shall be effective if the same is mailed addressed to the alarm user at the address furnished to the city in connection with a permit application or at such other address as the alarm user may furnish in writing to the city and such notice shall be effective if mailed to the alarm business at the address provided to the city in connection with the filing of alarm user instructions, or alternatively, to the last known address of said alarm business.

(i) After permit revocation, the alarm user shall take steps to alleviate the false alarm problem. Alarm permits which have been revoked may be reinstated after a report is submitted describing corrective actions taken along with an alarm user application form as described in Section 1-5 (A) and payment of a reissued users alarm permit fee.

First reissued users permit in original one-year period	\$ 50
Second reissued users permit in original one-year period.	\$100
Third reissued users permit in original one-year period.	\$150
Fourth and each reissued users permit in original one-year period	\$ 200

(Ord. No. O-91-276, 11-12-91, eff. 1-1-92)

Sec. 27-109. General regulations.

(a) It shall be unlawful for any person to intentionally activate any alarm for any reason other than to warn of an unlawful act, fire or other emergency. The testing of an alarm or alarm system shall not constitute a false alarm when permittee notifies the appropriate monitoring company prior to any service, test, repair, maintenance, adjustment, alteration, or installation of systems which would normally result in an emergency response.

(b) No person or business who purchases, leases, rents or uses an audible alarm system, device or service which is not connected to a central receiving station of an alarm business shall allow said alarm to sound in excess of thirty (30) minutes. An audible alarm which has emitted an alarm signal in excess of thirty (30) minutes is hereby declared to be a nuisance. If service is unavailable from an alarm business or agent responsible for the system, the city may cause the alarm to be disconnected with the cost therefor to be a charge payable by the alarm user. (Ord. No. O-91-276, 11-12-91, eff. 1-1-92; Ord. No. O-93-112, 4-27-93)

Sec. 27-110. Removal of unlawful equipment.

In addition to any other remedy provided by law, the city may, whenever it receives knowledge of the use of any device or attachment not operated or maintained in accordance with the provisions of this article, order the removal of such device or attachment. (Ord. No. O-91-276, 11-12-91, eff. 1-1-92)

Sec. 27-111. Violations and penalties.

(a) In addition to the unlawful acts hereinabove specified, it shall be unlawful for any alarm user to activate an alarm system for use within the city without first obtaining a permit as required by this article. It shall be unlawful for any alarm user to fail to disconnect an alarm system after the revocation of an alarm user's permit in accordance with the terms and provisions of this article.

(b) Enforcement: The city alarm coordinator, city fire marshal and city police officers are authorized to initiate enforcement of this article.

(c) Penalty: Any person convicted of a violation of any provision of this article shall be guilty of a class 2 misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed six (6) months, or by both fine and imprisonment, and each day any violation shall continue shall constitute a separate offense.

(d) The conviction or punishment of any person for violation of the provisions of this article or for failing to secure a permit as required by this article shall not relieve the person from paying the permit fee due and unpaid at the time of the conviction, nor shall payment of any permit fee prevent criminal prosecution for violation of any of the provisions of this article. All remedies shall be cumulative and the use of one or more remedies by the city shall not bar the use of any other remedy to the purpose of enforcing the provisions of this article. The amount of any permit fee or service assessment shall be deemed a debt to the city. An action may be commenced in the name of the city in any court of competent jurisdiction for the amount of any delinquent permit fee or service assessment. (Ord. No. O-91-276, 11-12-91, eff. 1-1-92)

Sec. 27-112. Confidentiality.

The information furnished and secured pursuant to this article shall be confidential and shall not be subject to public inspection. (Ord. No. O-91-276, 11-12-91, eff. 1-1-92)

Sec. 27-113. Appeal procedures.

(a) Any party aggrieved by a decision of the alarm coordinator or his designee made pursuant to Section 27-108 may, within ten (10) calendar days of receipt of notice of the decision, appeal to the emergency communications users committee. A copy of the appeal request shall be sent to the alarm coordinator or his designee.

(b) The request for an appeal shall set forth the specific objection to the decision of the alarm coordinator or his designee which form the basis of the appeal. (Ord. No. O-91-276, 11-12-91, eff. 1-1-92)

Sec. 27-114. Civil liability.

(a) Neither the police department nor the fire department, nor any other agency of the City of Lynchburg, shall be under any obligation or duty to accord any priority to an alarm system, or to any person by reason of this article. The City of Lynchburg specifically disclaims liability for any damages which may be caused by the failure of the City of Lynchburg to respond to an emergency or alarm, or any damages caused by a reasonable response to an emergency alarm.

(b) The City of Lynchburg, its officers, employees and agents shall not assume any duty or responsibility for the installation, maintenance, operation, repair or effectiveness of any privately owned alarm system, such duties or responsibilities being solely those of the alarm user and relevant alarm business. Additionally, it shall be solely the responsibility of the alarm user and relevant alarm business to silence an activated alarm and thereafter to reset the same. (Ord. No. O-91-276, 11-12-91, eff. 1-1-92)

Sec. 27-115. Severability.

If any section, subsection, clause, or phrase of this article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this article. (Ord. No. O-91-276, 11-12-91, eff. 1-1-92)